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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA23-709

Filed 2 April 2024

Durham County, No. 20 J 136

IN THE MATTER OF: E.P.

Appeal by Respondent-Father from order entered 16 March 2023 by Judge Shamieka L. Rhinehart in Durham County District Court. Heard in the Court of Appeals 18 March 2024.

Senior Assistant County Attorney Bettyna B. Abney for Petitioner-Appellee Durham County Department of Social Services.

Michelle FormyDuval Lynch for the Guardian ad Litem.

BJK Legal, by Benjamin J. Kull, for Respondent-Appellant Father.

PER CURIAM.

Respondent-Father seeks review of a permanency-planning order granting full legal and physical custody of his daughter, “Eliza,”¹ to Eliza’s mother. After careful review, we allow the motion to dismiss this appeal filed by the guardian ad litem (“GAL”), because this appeal was rendered moot on 22 December 2023, the date of

¹ A stipulated pseudonym used to protect the juvenile’s identity and for ease of reading. See N.C. R. App. P. 42(b).

Eliza's eighteenth birthday.

I. Factual & Procedural Background

On 20 October 2020, Durham County Department of Social Services ("DSS") filed a juvenile petition for Eliza, and the trial court entered an order the same day granting nonsecure custody of Eliza to DSS. On 17 June 2022, the trial court entered orders adjudicating Eliza as an abused, neglected, and dependent juvenile, and setting the primary permanent plan as reunification with either parent and a secondary plan of guardianship with a court-approved caretaker. Respondent-Father timely appealed from the adjudication and disposition orders, and in an opinion filed 7 November 2023, this Court affirmed the adjudications of Eliza as an abused and neglected juvenile but vacated the portion of the order adjudicating her as a dependent juvenile. *See In re E.P.*, __ N.C. App. __, 893 S.E.2d 275 (2023) (unpublished) (per curiam).

Respondent-Father's present appeal arises from a permanency-planning order entered 16 March 2023, in which the trial court, *inter alia*, granted full legal and physical custody of Eliza to her mother. On 12 April 2023, Respondent-Father gave notice of appeal. On 26 January 2024, the GAL filed a motion to dismiss Respondent-Father's appeal on grounds of mootness, noting that Eliza reached the age of majority on 22 December 2023.

II. Motion to Dismiss

The GAL's position is that Respondent-Father's appeal is moot and must be dismissed. We agree.

In a juvenile abuse, neglect, or dependency proceeding, the trial court's "jurisdiction shall continue until terminated by order of the court or *until the juvenile reaches the age of 18 years* or is otherwise emancipated, whichever occurs first." N.C. Gen. Stat. § 7B-201(a) (2023) (emphasis added). Eliza was born on 22 December 2005 and turned eighteen on 22 December 2023, at which point the trial "court no longer ha[d] subject matter jurisdiction in this proceeding and the permanent plan [was] no longer in effect." *See In re A.K.G.*, 270 N.C. App. 409, 411, 841 S.E.2d 317, 319 (2020). As a result, "even if this Court determined that the trial court erred in its order . . . , we could not remand the matter to correct that error and our ruling would have no practical effect." *See id.* at 411, 841 S.E.2d at 319 (citations omitted).

In cases where "a determination is sought on a matter which, when rendered, cannot have any practical effect on the existing controversy," we will dismiss the appeal unless an exception to the mootness doctrine applies. *In re B.G.*, 207 N.C. App. 745, 747, 701 S.E.2d 324, 325 (2010) (citation omitted), *dismissed as moot*, 365 N.C. 212, 709 S.E.2d 919 (2011). One such exception is "when there are adverse collateral consequences of denying review." *In re J.M.*, __ N.C. App. __, 894 S.E.2d 521, 523 (2023). Specifically, despite the fact "the *juvenile* (now an adult) is no longer affected by the challenged order, the case might not be moot if the order could have

future adverse effects on the *parent* who filed the appeal.” *In re A.K.G.*, 270 N.C. App. at 411, 841 S.E.2d at 320 (emphases in original).

In *A.K.G.*, this Court considered an appeal taken from a permanency-planning order for a juvenile who turned eighteen during the pendency of the appeal. 270 N.C. App. at 409–10, 841 S.E.2d at 319. We found no “applicable exceptions to the mootness doctrine” because “[t]he challenged order, which merely changed [the juvenile’s] permanent plan, [did] not create the sort of collateral consequences that exist with an order adjudicating a juvenile as neglected or an order terminating parental rights” *Id.* at 409–10, 841 S.E.2d at 319.

Here, Respondent-Father maintains his appeal was not rendered moot when Eliza turned eighteen because the permanency-planning order created an adverse collateral consequence in that his “obligation to pay child support will extend past Eliza’s eighteenth birthday” because she is still in high school. *See* N.C. Gen. Stat. § 50-13.4(c)(2) (2023) (noting a parent’s child support obligation does not necessarily terminate at age eighteen if the child is still enrolled in primary or secondary school). We find Respondent-Father’s contention unpersuasive because no record evidence demonstrates that Eliza in fact remains in secondary school at the time of the filing of this opinion. Indeed, Respondent-Father can only extrapolate the possibility that, “having only begun her junior year after the first half of the 2022–23 school year, *Eliza would not be expected to graduate high school for two more years—i.e., until*

after she finishes the first half of the 2024–25 school year, at which point she would be nineteen years old.” (Emphasis added).

On this record, then, we cannot know whether Eliza remains enrolled in secondary school, whether any child-support order remains in effect, or even whether Eliza elected to continue residing with her mother upon reaching her eighteenth birthday. *See In re Foreclosure of a Deed of Trust Executed by Moretz*, 287 N.C. App. 117, 125, 882 S.E.2d 572, 578 (2022) (emphasizing that the appellant “b[ears] the burden of proceeding and of ensuring that the record on appeal and verbatim transcript [is] complete, properly settled, in correct form, and filed with the appropriate appellate court by the applicable deadlines.” (citation omitted)).

Moreover, even if we had jurisdiction to address Respondent-Father’s appeal *and* determined he was entitled to relief, such a disposition would not terminate his child-support obligation, if any, as such a support order concerning Eliza was not part of this Chapter 7B case in file number 20 J 136. Instead, in order to obtain any hypothetical relief, Respondent-Father would still need to pursue modification in the Chapter 50 proceeding in which his child-support obligation arose, an option that remains available to Respondent-Father despite our dismissal of this appeal. *See* N.C. Gen. Stat. § 50-13.7(a) (2023) (“An order of a court of this State for support of a minor child may be modified or vacated at any time, upon motion in the cause and a showing of changed circumstances by either party . . .”).

In sum, once she reached the age of majority, Eliza passed beyond the juvenile court's jurisdiction in file number 20 J 136 and was legally free to reside wherever and with whomever she chose. *See In re A.K.G.*, 270 N.C. App. at 411, 841 S.E.2d at 319.

III. Conclusion

As Respondent-Father's appeal is moot and no exception to the mootness doctrine applies, we allow the GAL's motion to dismiss Respondent-Father's appeal.

DISMISSED.

Panel consisting of:

Judges ZACHARY, CARPENTER, THOMPSON.

Report per Rule 30(e).